

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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V.O. and I.O. on behalf of D.O.,

Plaintiffs,

-v-

New York City Department of Education,

Defendant.

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**ANSWER**

08 CV 01557 (DLC)

Defendant by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except admits that plaintiffs purport to proceed as described therein.
2. Denies the allegations set forth in paragraph “2” of the Complaint, except admits that plaintiffs purport to proceed as described therein.
3. Denies the allegations set forth in paragraph “3” of the Complaint, except admits that plaintiffs purport to invoke the jurisdiction of the Court as alleged therein.
4. Denies the allegations set forth in paragraph “4” of the Complaint, except admits that plaintiffs purport to invoke a basis for venue as alleged therein.
5. Denies the allegations set forth in paragraph “5” of the Complaint, and denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiff D.O.’s alleged diagnosis with autism.
6. Denies the allegations set forth in paragraph “6” of the Complaint, and denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiffs’ residence.

7. Denies the allegations set forth in paragraph “7” of the Complaint, except admits that plaintiffs purport to proceed as described therein.

8. Denies the allegations set forth in paragraph “8” of the Complaint, except admits that Defendant is a local educational agency as defined by the IDEA, and respectfully refers the Court to the IDEA and Article 89 of the New York Education Law regarding the duties of the Defendant.

9. Denies the allegations set forth in paragraph “9” of the Complaint, except admits that plaintiffs initiated an administrative proceeding against the Defendant, and respectfully refers the Court to plaintiffs’ Impartial Hearing Request in that proceeding for a complete and accurate statement of its contents.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of the Complaint.

12. Denies the allegations set forth in paragraph “12” of the Complaint, except admits that persons affiliated with Mayerson & Associates appeared for plaintiffs at times during the proceedings in Case No. 58189, and respectfully refers the Court to the impartial hearing transcript for a complete and accurate statement of what transpired at the impartial hearing.

13. Denies the allegations set forth in paragraph “13” of the Complaint and respectfully refers the Court to the Impartial Hearing Officer’s “Findings of Fact and Decision” dated April 22, 2005, for a complete and accurate statement of its contents.

14. Denies the allegations set forth in paragraph “14” of the Complaint.

15. Denies the allegations set forth in paragraph “15” of the Complaint.

16. Denies the allegations set forth in paragraph "16" of the Complaint, and respectfully refers the Court to Plaintiff's billing records for a complete and accurate statement of their contents.

**FIRST AFFIRMATIVE DEFENSE:**

17. The Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE:**

18. At all times relevant to the acts alleged in the Complaint, the conduct of Defendant was lawful.

**THIRD AFFIRMATIVE DEFENSE:**

19. Some or all of plaintiffs' claims may be barred by the applicable statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE:**

20. Plaintiffs lack standing to assert the claims alleged in the Complaint.

**WHEREFORE,** Defendant requests judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York  
April 25, 2008

MICHAEL A. CARDOZO  
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City of New York  
Attorney for Defendants  
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By: /S/Steven D. Weber  
Steven D. Weber  
Assistant Corporation Counsel

To: Gary S. Mayerson, attorney for plaintiffs (**BY ECF**)